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OFFICE OF PETITIONS

In re Application of Bhat et al.	:	
Application No. 09/267,199	:	Decision on Petition
Filing Date: March 12, 1999	:	
Attorney Docket No. 16517.233	:	

This is a decision on the petition filed March 13, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Petitioner filed an amendment on January 6, 2006, during a pending appeal.

Petitioner filed an "Express Abandonment" on March 13, 2006. The Express Abandonment requested the application be "expressly abandoned under 37 C.F.R. § 1.138(a) upon entry of the Amendment filed January 6, 2006."

An applicant may not file "conditional" papers. The policy of the PTO is to treat "conditional" papers as "unconditional" papers as demonstrated by the MPEP excerpts below.

MPEP 201, with emphasis added,

A "conditional" request for a CPA will not be permitted. Any "conditional" request for a CPA submitted as a separate paper with an amendment after final in an application will be treated as an unconditional request for a CPA of the application. *This will result ... in the abandonment of the prior application.*

MPEP 701.07(g):

It is noted that if the submission is accompanied by a "conditional" payment of the fee set forth in 37 CFR 1.17(r), ... the Office will treat the conditional payment as an unconditional payment of the 37 CFR 1.17(r) fee.

MPEP 706.07(h)(II)(C):

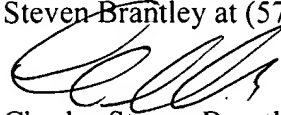
If a submission is accompanied by a "conditional" RCE ... the Office will treat the "conditional" RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed.

MPEP 714.13(II):

The U.S. Patent and Trademark Office does not recognize "conditional" authorizations to charge an appeal fee if an amendment submitted after a final Office action is not entered. Any "conditional" authorization to charge an appeal fee set forth in 37 CFR 1.17(b) will be treated as an unconditional payment of the fee set forth in 37 CFR 1.17(b).

The "conditional" Express Abandonment was properly treated as an unconditional Express Abandonment and the application is abandoned.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions